

## THE LEGISLATIVE ASSEMBLY.

Seventeenth Day.

FRIDAY, June 13.

The House opened at 10 A. M. Prayer by the Chaplain. Minutes read and approved.

Noble Baldwin presented his minority report on Treaty matters. The reading of the report and translation occupied until 12 o'clock.

Minister Ashford moved to take a recess until 1:30.

Rep. Rickard moved that this report with all documents be printed.

Noble Baldwin said that while he would like to see all the evidence printed, yet thought there might be some doubt as to the propriety of printing some containing references to the opinion of the British minister, etc.

Rep. Kalua said the entire report of the minority with all letters to which allusions have been made ought to be published.

Noble Baldwin—The honorable member has misunderstood me. I merely thought it not very nice to print what foreign representatives in Washington may have said. It does not bear directly on the subject. Motion carried.

House took a recess until 1:45 P. M.

Afternoon Session.

The House re-assembled at 1:45 P. M.

Minister Austin—I rise to a question of privilege. I wish to say a few words as to the charges made against me in the majority report of the Foreign Affairs committee.

Rep. Kalua—I think anything which the Minister may wish to say is out of place, because the report is not now before the House. When the report is returned from the printing committee he can have an opportunity to make a reply, as I think he ought to have. I think His Excellency's remarks are out of place, because the House is now on that order of business. I rise to a point of order.

President—I rule that the Minister is in order.

Minister Austin—I shall not make a speech, but simply reply to a few statements. The report of the committee contains four charges against me.

1. That I did not obey the instructions of the House in furnishing documents beginning January 1, 1889.

In reply, I state that I did lay before the House all the correspondence. There were no letters or documents.

2. Of having removed, or caused to be removed, Letter 38, containing matter with regard to Treaty, and the answer to that letter.

In reply, I state that it is totally untrue. I did not abstract Letter 38. It is a confidential letter in my possession, referring to important matters not connected with the proposed Treaty. The only remark referring to Treaty referred to treaties already in existence and contained the suggestion that it was a pity the present Treaty did not contain any guarantee of our independence. (The speaker read the passage in question and also passages from the other letter referred to, the reply to Letter 38.)

3. Of refusing to communicate to the minutes of Cabinet meetings referring to the Treaty.

I state in reply, that the House did not call for the Cabinet minutes, but on the contrary distinctly refused to do so. As a matter of fact these minutes do not contain any matter which would throw any light on the Treaty.

4. Having acknowledged that most of the correspondence was in the shape, not of confidential letters but private letters of his own he refused to submit these letters to the committee.

I submit the fourth charge is rather indefinite. It merely charges me with claiming that my private correspondence is my own I admit it.

It is customary that the preliminary letters with regard to a negotiation are always private until the matter is so situated that some official action could be taken. I asked Mr. Carter if he thought we could enter into any further treaty relation with the United States. He thought we could, and he made a draft. He stated that the United States might ask for privilege of landing troops, but said as a Hawaiian he would oppose that. I asked him to put such a clause into form which he did and it was rejected by all of the Cabinet. It was said that it would give any existing government too much power, and also I think that the King would object to it.

(The Minister quoted from the report showing that the Foreign Affairs committee had misrepresented the words of Minister Carter by omitting some of them in quoting. After making some strictures on the conduct of the committee he said:—)

In conducting the affairs of the Foreign Office I have always endeavored to preserve the autonomy of the Kingdom. The Minister's correspondents must necessarily confide fully on his official honor which they could not do if he betrayed previous correspondence. I have always been and am opposed to any scheme which would result in annexation or any form of protectorate.

Rep. Marques—This is not the time to discuss the treaty matter, but I hope there will be a full discussion when the documents are before the House.

President—There is nothing before the House.

Rep. Marques—I wish to move that the remarks of Minister Austin be translated and printed. Carried.

Noble Widemann introduced the following resolution of want of confidence: Whereas, it is painfully apparent that His Majesty's constitutional advisers are irreconcilably divided against themselves, and

Whereas, it is manifestly impossible to otherwise heal the dissension in a manner conducive to the best interests of the Kingdom, except by a dissolution of the Cabinet, and such a course marking the truest patriotism;

Therefore, be it resolved, that this Assembly do mark its dissatisfaction with the existing state of affairs by declaring a want of confidence in the Ministry.

Noble Widemann in introducing the resolution said—Mr. President, it was denied the other day from the ministerial bench that Daniel Foster was ever named as President of the republic. A member of the League asked me how he would do. I said I took no stock in him. He then asked me what I do you think of Jonathan Austin. I said I take much less stock in him than in the other. Mr. President, we have had a revolution here of which all the town knew except the Ministry. Lately we have had rumors of a revolution of which no one knew anything except the Mar-

shal and the Ministry. The Minister of Interior spoke of the town being so full of rumors, that the heads of the leading business houses were concerning what steps they should take to protect property. Mr. President, was this before they were excited by the Ministry and the Marshal? We must assume from the whole answer of the Minister that it was subsequent, for if it had been previous there would have been more people at the station the night he has described. At 1 A. M. that night, the Minister of the Interior was there. Some lame duck was brought afterwards, who certified that he had seen some soldiers in the street. Have any inquiries been made as to who those men were? Was the policeman ever asked? I am informed they were Honolulu rifles returning from a jollification, perhaps pretty well set up. Were they dangerous to the peace of the community? Now, Mr. President, we will follow up the action of the Minister of the Interior. He found there were five men on guard and telephoned for three or four individuals who came. The Minister says he took down the statement of the policeman. I should think it would have occurred to him to ask who they were that he saw, and he then would have found that they were friends. Why did he try to make us believe they were enemies, trying to kick up a revolution? From his speech, I do not think he believes it himself. If there were armed men swarming in the streets, four or five men could not do much to keep down a revolution. If he had believed there was any danger, he would have sent for more and I would have gone, although I was not very well. I must infer he did not believe in it, or he would have prepared to meet them. If he did believe it and only sent for three or four men, he was incompetent and ought to have stayed in bed. Now, Mr. President, the Minister said again that if anyone wished to know what hell on earth is, all he had to do was to be in a divided Cabinet. Now, Mr. President, I conclude this hell is heaven to him because he does not leave it. All he has to do is to get up and go. But no; it is a very sweet hell—a heaven to him. He likes it, he loves it.

Rep. Brown—I believe that there is a greater principle at stake than the question of the Ministry—that is that the minority should not rule. I therefore introduce as an amendment the following: Whereas, His Excellency C. W. Ashford did advise His Majesty the King to refuse to follow the advice of the majority of the Cabinet; and

Whereas, in conformity with the terms of the Constitution the Cabinet did threaten submit to the Supreme Court for decision of whether such advice was legal and constitutional; and

Whereas the Supreme Court did thereupon in accordance with the terms of the Constitution render an opinion in writing to the effect that such advice of the Attorney-General was illegal and unconstitutional that the majority of the Cabinet should govern the action of the Cabinet, and that under the Constitution the law it is the duty of His Majesty the King to act upon the advice of a majority of the Cabinet; and

Whereas after receiving full knowledge of the purport of such written opinion of the Supreme Court the said Attorney-General did thereupon again advise His Majesty the King to disregard the advice of a majority of the Cabinet, and did further advise His Majesty to disregard the opinion of the Supreme Court, that such opinion was wholly without effect and no more binding than the opinion of any other three men of equal ability; therefore be it resolved

That such action on the part of the Attorney-General is illegal, revolutionary, unconstitutional and contrary to his oath of office.

That such an assertion of the principle of the right of the minority to rule is subversive of constitutional representative government.

That such action of the Attorney-General is deserving of the severest censure and condemnation of this House, and by reason thereof this House do hereby declare its lack of confidence in the said Attorney-General.

Rep. Brown said—If the minority is going to rule we may as well do away with all constitutional representative government. We have a Constitution by which the Ministry are made responsible to the House. If the minority is to govern, where are we? Now, Mr. President, before we vote on a want of confidence in this Cabinet, I say that the House ought to establish a precedent that it does not believe in minority rule. Mr. President, I think every member of the House, be he Reformer, National Reformer or Independent, should settle this question, a question which affects and will continue to affect our prosperity and independence.

It will not interfere with the wish of the majority. If they wish to oust the Cabinet they can still do so. But it is a question of such vital importance to the welfare of this country that it must be settled now and forever.

Minister Ashford—I rise to a point of order. Article 41 of the Constitution provides for the manner of dismissing the Cabinet. They must be dismissed as a whole.

Rep. Brown—Point of order under the rules or what?

Attorney-General—The Constitution is above the rules of the House. I will read Article 41. (Reads.) My point, Mr. President, is that the House can, under this Article, get rid of one Minister only by passing a vote of want of confidence in the whole Cabinet. This view has been crystallized in a resolution of this House. The honorable Godfrey Brown in 1887 was thinking of resigning and did so. The King thought as one Minister had resigned all must resign. Noble Castle brought December 7, 1887, a resolution stating that the resignation of one Minister does not invite the resignation of the rest for reasons other than that under Article 41. This resolution distinctly and plainly implies that under Article 41, we cannot resign without all resigning, and therefore the House cannot dispose of me in this manner. I will cite another incident: It has become a chestnut with my friends moving votes of want of confidence in me. He brought a resolution of want of confidence then in the whole Cabinet, solely because I had paid as he claimed, improperly, Mr. W. R. Castle a fee of \$25 for certain services in the Supreme Court. Just fifteen days later another resolution of want of confidence was introduced. My Deputy was sick and I was busy in the Legislature and so, short handed, Noble Hitchcock happened to be going to Waimanalo. It was arranged that he should take the case. Rep. Kamaooha got hold of the facts—and brought in a resolution of want of confidence in the Attorney-General? No; in the entire Cabinet. If the point of order is decided and an

appeal is taken, of course neither myself nor any of the Cabinet can vote.

Rep. Brown—Mr. President. Minister Ashford—I am reluctant to make one more. If the Cabinet voluntarily assume responsibility they are accountable if they are implicated. But otherwise not, and it is not reason or common sense nor justice to hold men responsible for the acts of others which they have been trying to prevent.

If one member of the Cabinet went out and stole \$10 according to this rule the House could not notice it without voting the whole Cabinet out of office. It may be said that in England that they have no written constitution. No, but the law is the same as ours. They are governed by precedent and so are we. I must again appeal to this House and to the opposition members whether opposed to me or not, to stand up for the privileges of this House. I do not believe this ruling was given maliciously, but in ignorance of what the English law is. Now that it is given it is the duty of the House not to support it but to sustain the rights of this House.

If the ruling is supported the House deprives itself of the power to consider the conduct of a single Minister. I think the point might have been raised to some one besides the Attorney-General. When the question of his conduct and ours comes up to be considered he tries to choke it off. Mr. President, I think I would have died in my boots before I would have put myself in such a position. Now gentlemen of the loyal opposition, for I believe you are loyal, as loyal as I am, though your views are different, the question before you is not whether I am right or he is right, but whether you can consider it at all or not. I demand the right as a man who has worked for three years night or day—I have never shirked to have this question considered.

Minister Ashford—The Minister of the Interior thinks it unwise for the House to let go the right to investigate the conduct of one Minister, but I contend that the House never had any such power. The Minister thinks I am afraid. Who is afraid? I am not. The Minister of the Interior wrote this amendment, if I am not mistaken, to choke off consideration of his own conduct. The Minister thinks it unfair for the House to take any partisan advantage. Who is trying that? Do I try to evade responsibility? I stand ready to fall with the rest, but the others have the audacity to put on a mask and parade their lofty patriotism with the resolution of last night's caucus grinning like a codfish from their pockets. The Minister says the ruling takes away a privilege of this House, Mr. President, the House never had any such privilege until this Constitution, and if this Constitution does not grant the power, then it does not exist. He has cited a work by Mr. Todd; I have a great respect for Mr. Todd; he was a Canadian who had been as near England as I have. Now, there never was a vote of want of confidence in the English Parliament of less than the whole Cabinet. This is only a piece of the conduct of the Minister of the Interior and his friends. They want to go to England for their law and to the United States for their protection. Mr. President, I have read a little English history myself, and I maintain that not once in modern times has any such vote been directed against less than the whole Cabinet. The Minister suggests it would be disastrous to the House. Now, if we strike out House and substitute Minister of Interior, that would be what he had in his mind. It is of no consequence to me whether the appeal is sustained or not. The Minister has pounded the table with great force. He wants my inquiries investigated. How about his own? I am in bad company and I admit it. They got bad after I came in, and when I was away they got worse. (After making a number of remarks about the treaty, the speaker said:—) I am not going to play the baby act. I am not going to cry over spilled milk. I am willing to go down when there are four men here who can do more for the interest of the country than these three do. I am willing to take my appeal from the House to the people, and I invite the Minister of the Interior to meet me there.

Rep. Kalua—Only question before the House is whether ruling of President is correct. I put Articles 41 and 42 together, and seems to me the President's ruling. I move the previous question. Carried.

Rep. Brown says—I want eyes and noses called so that voters may mark every member's name who surrendered their rights.

Rep. Kalua—Have the Ministers right to vote on this question?

The President—Certainly.

Rep. Kalua—Aole.

Minister Ashford protested.

President—I rule they have no right to vote.

Minister Thurston—I wish to enter my protest against the way in which the Chair makes rulings, simply because the crowd raises a shout bandying about the rights of Cabinet ministers. The Constitution says Cabinet ministers shall vote on all questions, except a want of confidence in themselves, and I claim the right to vote, although as a matter of delicacy I shall not vote, but I protest against the ruling of the Chair.

Noble Widemann—This is virtually a question of want of confidence.

Rep. Rosa—The Chair ruled that the Ministers can vote, and I think that the Chair has no right to change its rulings: And with all due respect, I think it is unfair.

President—I rule as I did in the first place, that the Ministers have the right to vote.

The ayes and noes were followed.

The following members explained their votes:

Noble McCarthy—I wish to explain my vote. I am not in favor of the amendment, but I believe now after hearing the argument (I did not so think when I came in) that the House has a right to censure one member if it choose.

Rep. Kapaeahole—I wish to explain my vote. I am not in favor of amendment, but am not in favor of the ruling, because I believe in the right of the House to censure a single Minister.

Rep. Kaui—When my name was called I said "mahope." Mahope has come, and now as it makes no difference, I will not vote.

Rep. White—As it is not going to make any difference I shall not vote "Yes."

Ruling of the Chair is not sustained by a vote of 27 to 19.

Rep. Nawahi moves resolution adopted without amendment.

Rep. Brown—Motion is out of order.

Rep. Nawahi moves amendment be indefinitely postponed.

Rep. Brown—Motion is out of order. The amendment must be put.

Noble Widemann—The honorable member lays down the law again. I question it.

Minister Macfarlane—I move to lay on the table.

Rep. Brown—That motion is out of order.

Noble McCarthy—I call for the question on the amendment.

Noble Baldwin calls for ayes and noes.

Minister Ashford—This amendment is launched against me in my official capacity. I have not minded it, because I know of the malevolence of that little clique and faction which has directed it. I have no fear of a vote of want of confidence. It is no dishonor, unless in a matter of peculation. It is sought by this amendment to focus everything on my own head, and the reason is that I have had the audacity to advise His Majesty contrary to the opinion of my esteemed colleagues. It is sought to attach censure to me because forsooth I violated the Constitution. I have always thought that constitutions are made for governments, not governments for constitutions. But I deny that I have violated the Constitution. I claim to have the right to advise His Majesty. But they claim that I persisted in my opposition after three gentlemen up stairs had stated that they thought three men were sufficient to conduct the business of the Cabinet. So I did, but I considered that this was an expression of opinion merely and not declaratory of the law itself, and this is the view of the Supreme Court itself with regard to such expert opinions. As an illustration simply I will state that I advised as the law adviser of the Minister of Finance not to appoint C. L. Carter to sit on a Board of Tax appeals, as unconstitutional. Nevertheless, he made the appointment, but if I had claimed that his conduct was revolutionary and unconstitutional, he would have thought I was very radical indeed. If the full facts were in the possession of the member from the First District he would not have moved this amendment. If the principle is adopted that the Ministers are bound by the opinion of the Supreme Court, constitutional government is at an end in this country, and we shall have a despotism controlled by the Supreme Court. I admit that I opposed the signature of His Majesty, but I claim that the Supreme Court cannot put a gag in my mouth. I will advise as I think right. It was necessary for me to take the course I did to prevent the Ministry from binding the country hand and foot and delivering it over to the United States, and I shall continue to resist placing the sovereign rights of Hawaii in the hands of the United States or of any other country. As I remarked there are times when the Government must rise superior to the Constitution and for this position I have the authority of the lamented Abraham Lincoln. Mr. President, I make two points. 1. That I did not violate the Constitution in advising as I did. 2. That if I did it was justifiable. I rely principally on the first point. I would have resisted the opinion of these gentlemen and kept the Hawaiian flag aloft here no matter if there had been a constitution with a hundred and eighty articles forbidding it. I leave it to any fair-minded man in reach of my voice to say whether we have not reached a pretty pass if a Minister of the Crown is to be impeached because he has endeavored to keep the Hawaiian flag from trailing in the dust beneath the American flag. What opinion will foreigners have of a country which impeaches a man for striving to preserve its independence? Mr. President, there is really only one question involved in this amendment launched against me, whether I was justified in endeavoring to save the country from this Treaty. I leave it to the House, with the assurance that I would act as I did again, if the occasion should offer.

Rep. Robt. Wilcox—I was elected to come here and try the whole Cabinet, not merely one of them. The Ministers and members of the House have all taken the oath. I say all the Ministers are guilty, not merely one. Some think the Minister of Finance is not guilty. I say he is just as bad as the others. If not, why does he continue the opium stealers in the Custom House, men who committed murder on the 30th of June. So the Minister of Foreign Affairs has withheld documents. The Supreme Court is just as bad. It is rotten and the Chief Justice is one of the conspirators. As to the Attorney-General, who is he? A stranger who holds office by virtue of a revolution. The Minister of the Interior and the others deserve to be shot. That is what they really deserve. I should be in favor of a proper treaty, not such a one as the Ministers propose. The present treaty was procured by King Kalakaua himself, and those benefited by it have turned around and taken his constitution away from him. The Ministers ought to be court martialed and shot. That is what ought to be done. One is as bad as another and I am in favor of proceeding against them all.

Rep. Nawahi—This is like an indictment against four persons. The amendment directs it against one. One Minister has pleaded guilty. The others not, but they have admitted a great many things, enough to convince everybody. The people are tired of this squabbling and the only way to get rid of it is to dismiss them all. After I was elected I was asked what I was going to do. I said I was going to see what they had done, and if it was all right I would keep them in. I never saw anything like this squabbling before. I think it is disgraceful and the only way to stop it is to turn them all out, as they are all equally bad. I think the Minister of the Interior wants to stick to his seat. Enough has happened in this House already to make him resign, but it seems as though he was glued to his seat.

The House took a recess until 7:30 P. M.

Evening Session.

The House re-assembled at 7:30 P. M.

Rep. Nawahi continuing said—What the people want is good government, a Cabinet which commands the respect of the people, and when they cease to do so they ought to go out. I have nothing against the Ministers personally, nothing except their official acts. I have nothing against the Minister of Finance, personally. But in this matter mentioned by Attorney-General, of the appointment of C. L. Carter to the tax appeal board, I think he did wrong. So I have nothing against the Minister of Foreign Affairs except that the Finance committee have charged him with concealing documents. So with the Minister of the Interior. I have nothing against him except that the Auditor-General charges him with acts which he thinks the House ought to investigate. I don't know why we should single out a single Minister and pass a vote of want of confidence against him. If what we have been told is true, they have all been guilty of misconduct, for which they merit the censure of this Assembly. We have heard of conspiracies to put Mrs. Dominis on the throne,

and the Attorney-General has told us that the Minister of the Interior was at the bottom of that. So in regard to the treaty the Attorney-General says it was a treaty to sell out the independence of the country. I think if these things are true, all the Cabinet ought to go. If the Ministers have acted so before they will do it again. I think we had better let them go to-night. I don't care what side of the House the new Ministry comes from, as long as we have a new Ministry. I say let us settle this tonight.

Noble Baldwin—This is an exceedingly important question. The amendment involves principles which transcend and overtop everything else. The question is not primarily whether C. W. Ashford shall go and the other Ministers stay, but whether one man shall rule or not. The country expects us on our oaths to decide this question according to the right, to strip it of all personal feeling and decide according to what is right. Neither resolution brings any charge against the Ministers. Both are based on their dissension only. The amendment (I do not remember its precise terms) took hold of that principle. These are the facts in the case. The Attorney-General advised His Majesty not to sign the authorization to negotiate the treaty and not to sign H. F. Hubbard's commission. His Majesty took the ground that when the Cabinet is a unit he is not called upon to act, notwithstanding the opinion of the Supreme Court. This is not a partisan question, and we should not make it so. If we decide that one member can destroy the action of the Cabinet, we will be on very dangerous ground. Suppose a few months hence a member of the Cabinet chooses to block its action. There will be nothing to hinder it. Some of the members have had a good deal to say about Article 41 of the Constitution. To me it seems very plain. I will read it. It begins with the phrase—the Cabinet, that confuses some, as though that phrase governs the whole article, but it does not. The next sentence begins, not with "the Cabinet," but with "they." They are removable at any time if convicted on felony. According to the interpretation of the Attorney-General this would mean that the whole Cabinet would have to be convicted of felony. It seems perfectly clear that a vote of want of confidence can be brought against one, two or three. By so doing we would be establishing no new precedent. Time and again, in the United States, England and other countries, an offending Minister has been pushed out of the Cabinet. The matter stands in this way then. The Attorney-General has defied the rest of the Cabinet. It rests with us to decide for one or the other. It is a tremendously important question. I will not discuss the merits of the Cabinet's actions. I do not think they are before us. They are in the hands of the committee and we ought not to prejudice them.

Noble McCarthy—The last speaker has informed us that we are sent here to do what is right. Mr. President, I propose to do what I think is right. I believe in the right of the House to pass a vote of want of confidence on a single member. But a resolution of want of confidence has been brought against the whole Cabinet, and I think the whole Cabinet has shown by its action that it does not deserve the confidence of this House. A majority of the voters of the country have decided against this Ministry. On Hawaii the independent members were largely elected by voters of our party. Mr. President, this Ministry was defeated at the polls. The last speaker informs us that we should treat this in a non-partisan way. But, Mr. President, is it non-partisan to go into a caucus and sign a paper agreeing to vote for a want of confidence against the Attorney-General on condition that the rest of the Cabinet should resign next day. Should the Ministers say they did not put this "troops" clause there, neither did Mr. Carter nor Mr. Blaine. If nobody was in favor of it how did it come there? The principal involved seems to be that the Ministers of the Cabinet should not block the Cabinet. I think that is all right, but a gentleman of their own party who was so disgusted that he called it a dirty Cabinet, now brings in a vote of want of confidence against the Attorney-General, swallowing the other three. I can't do that. I have been opposed to this Ministry and would do all I could to put them out, but I did not expect it to come up in this way. A gentleman said, you have not had to get up any motion to get this Ministry out, they have all done it themselves. Noble Baldwin has argued that the question to be settled is whether one man is to control the Cabinet. This would be well enough, if the one man were always wrong. I think it is too much to say whether he is right or wrong. I think in this matter he is as likely to be right as wrong. Now, take this guarding the Station house. It has been a very serious state of affairs. Why didn't they call us together? But the fact is that it is of a pace with their whole administration. They want to run the country to suit themselves, to spend the money to suit themselves. I think it is about time we looked into matters.

Noble Widemann—The honorable Noble for Maui has given us a dissertation on Article 4, of the Constitution. He has read it his own way and that is what every member of the House will do. I do not think he was cut out for a constitutional lawyer. I do not deny the weight of the principle, but if it was so weighty, why does it come up so late. Mr. President, I am ready to vote against all four of them.

Rep. Waipulani—I am in doubt as to the wisdom of passing the resolution of want of confidence, viz., the differences. I think we will be on very dangerous ground if we pass the resolution and support a new Cabinet formed of the honorable member for Koolaula and others. After we were in here I wish to reward one of his political workers. We object because he is not a fit man and there is a difference at once, we must go out. If the Cabinet has done anything wrong, I shall be as ready as anyone to vote them out. When the committee have reported, if there is ground to dismiss them well and good, but as it is I don't feel justified in voting in favor of such a resolution. A great deal has been said here about the treaty. I think the House forgets that this matter is referred to a committee which has not yet reported. We can't vote on this matter now without prejudging the question. We have heard many opinions on Article 41. I feel at a loss to know myself what the meaning of that article is. I do not think we ought to act hastily.

Rep. Rosa—Before I proceed I would like to ask the Cabinet whether the Attorney-General did not join with the

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